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C O N F I D E N T I A L SECTION 01 OF 02 HARARE 002204

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SUBJECT: MDC LEGAL AFFAIRS SECRETARY ON RECENTLY CONCLUDED ELECTION PETITION HEARINGS, PARTY'S REGIONAL OUTREACH, INTER-PARTY TALKS

REF: (A) HARARE 2185 (B) HARARE 2141 (C) HARARE 2123

(D) HARARE 1792

Classified By: Political Officer Win Dayton under Section 1.5(b)(d)

¶1. (C) SUMMARY: MDC Secretary for Legal Affairs David Coltart on November 4 confirmed to the Embassy the party's expectation that the court would delay issuance of judgment on the election petition (hearings on which concluded November 4) before eventually rejecting it. He outlined to Ambassador Sullivan efforts to engage Senegalese President Wade and other liberal African leaders to press South African President Mbeki to be more forceful with President Mugabe. Coltart recounted a recent meeting he had with Nelson Mandela, and was hopeful that Mandela would work behind the scenes to energize Mbeki on Zimbabwe. He reconfirmed that the MDC and ZANU-PF had not reached agreement on transitional arrangements but advised that Chinamasa's office had drafted an instrument that may have been served to the South African government as a deal between the parties. END SUMMARY.

¶2. (C) Upon the unexpectedly early conclusion November 4 of court hearings on the MDC's election challenge, Coltart told the Embassy that the government's courtroom presentation offered little beyond mostly political rather than legal arguments raised in its written submissions. The only twist was a government request that the court defer decision on the legal arguments in phase one until after hearings had concluded on phase two. (As suggested in refs A and C, the MDC wants the court to rule first on phase one; a ruling in its favor would obviate the need for phase 2.) Coltart reaffirmed MDC expectations that, despite the petition's strong merits, the court would find for the government after considerable delay.

¶3. (C) Coltart related to the Ambassador separately on the same day an account of his recent contacts outside Zimbabwe. On the margins of his participation in a Liberal International Congress in Dakar last month, he had a lengthy meeting with Senegalese President Wade. Coltart said that he had pitched Wade on the idea of "surrounding" Mbeki with more pressure on Zimbabwe. Mbeki was caught between domestic priorities and his interest in being an African bridge to the West; positive pressure from liberal African leaders would enable him to take a more forceful position toward Mugabe. Kenyan President Kibaki, Ghanaian President Kufuor, and Malawian President Muluzi (who already displayed willingness to engage on Zimbabwe) were candidates to participate in such an effort. MDC had positive relations with the Ghanaian and Kenyan ruling parties and hoped that Kibaki or Kufuor might be willing to join in such an effort. According to Coltart, Wade was non-committal but "intrigued", and the meeting went longer than originally scheduled as he explored the idea.

¶4. (C) Coltart also recounted a meeting he had with Nelson Mandela while in South Africa last month. Mandela generally was very negative toward Mugabe. He was out of touch on the status of inter-party talks in Zimbabwe but was surprised to hear that so little actual progress had been made. Mandela asserted that Mugabe would never leave without definitive resolution of the issue of his immunity from future prosecution -- an issue that had not been touched. Coltart was encouraged by Mandela's interest and thought he could be useful behind the scenes, particularly in neutralizing some of the domestic and regional pressures hemming in Mbeki's potential forcefulness with Mugabe.

¶5. (C) Coltart denied that any meaningful progress on transitional arrangements had been made, as reported by South African High Commissioner Ndou (ref B). Coltart added that a reliable source had reported to him that Justice Minister Chinamasa's office had prepared a paper detailing transitional arrangements but had yet to convey it to the MDC. He hypothesized that ZANU-PF was passing off the material to the South Africans as a deal agreed to by the parties in an effort to mollify Mbeki and to dampen international pressure.

¶6. (C) COMMENT: Coltart's outreach to additional African countries appears to be a continuation of efforts already underway to stimulate SADC governments to engage Mbeki (ref

D). We would appreciate any feedback from Embassies Dakar, Nairobi, and Accra on potential resonance the MDC's pitch might have with host governments. There remains a considerable disconnect between what we are getting from the MDC and what the South Africans reportedly are getting from ZANU-PF regarding progress on talks. In any event, ZANU-PF's ongoing inward focus in the run-up to its annual party conference next month suggests that it will remain reluctant to move forward with meaningful inter-party talks for now.

SULLIVAN